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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,772	09/08/2003	Joseph W. Bommarito	INV 0101 PUSP	3955

22045 7590 10/14/2004

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EXAMINER

GORDON, STEPHEN T

ART UNIT	PAPER NUMBER
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3612

DATE MAILED: 10/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/657,772

Applicant(s)

BOMMARITO ET AL.

Examiner

Stephen Gordon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 4, 6, 7, 11, 14 and 17-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 8-10, 12, 13, 15 and 16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2-6-04.
- ☒ Interview Summary (PTO-413)
Paper No(s)/Mail Date. 1004.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

1. Claims 4,6,7,11,14, and 17-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention group and/or species.

Election was made **without** traverse in the reply filed on 8-26-04 and in the interview of 10-6-04 (see attached interview summary).

2. It is requested that applicant cancel at least non-elected claims 17-20 in response to this action to facilitate the issue process if the application is ultimately allowed.

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: edge 48 (page 6). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

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4. Claims 1-3, 5, 8-10, 12-13, and 15-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re claim 1, line 8 is somewhat confusing, and "side wall" could be replaced with —one of said side walls—to clarify the claim in this regard as best understood.

Re claim 3, line 3 is somewhat confusing, and "side wall" could be replaced with —one of said side walls—to clarify the claim in this regard as best understood.

Re claim 4, while the claim is withdrawn from consideration and a complete action on the merits is not included herein, in an effort to expedite prosecution it is noted that line 3 is somewhat confusing, and "side wall" could be replaced with —one of said side walls—to clarify the claim in this regard as best understood.

Re claim 6, while the claim is withdrawn from consideration and a complete action on the merits is not included herein, in an effort to expedite prosecution it is noted that line 3 is somewhat confusing, and "bed wall" could be replaced with —one of said bed walls—to clarify the claim in this regard as best understood.

Additionally, line 4 is somewhat confusing, and "lip" could be replaced with —one of said lips—to clarify the claim in this regard as best understood.

Re claim 7, while the claim is withdrawn from consideration and a complete action on the merits is not included herein, in an effort to expedite prosecution it is noted that line 3 is somewhat confusing, and "bed wall" could be replaced with —one of said bed walls—to clarify the claim in this regard as best understood.

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Additionally, line 5 is somewhat confusing, and "lip" could be replaced with —one of said lips—to clarify the claim in this regard as best understood.

Re claim 8, line 3 is somewhat confusing, and "threaded hole" could be replaced with —one of said threaded holes—to clarify the claim in this regard as best understood.

Re claim 9, line 6 is somewhat awkward and confusing, and "in" of the line could be replaced with —and into—to correct the claim in this regard as best understood.

Re claim 10, line 3 is somewhat confusing, and "bed wall" could be replaced with —one of said bed walls—to clarify the claim in this regard as best understood.

Additionally, line 10 is somewhat confusing, and "side wall along a length of a" could be replaced with —one of said side walls along a length of the—to clarify the claim in this regard as best understood.

Re claim 11, while the claim is withdrawn from consideration and a complete action on the merits is not included herein, in an effort to expedite prosecution it is noted that line 5 is somewhat confusing, and "side wall" could be replaced with —one of said side walls—to clarify the claim in this regard as best understood. Additionally, the claim appears to be inconsistent with the base claim. Specifically, the base claim calls for the side walls to be integrally formed with the first wall. Claim 11 appears to be drawn to the figure 9 embodiment and calls for channels to receive the side walls. It is not clear that such a configuration would define "integrally formed" walls as such.

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Re claim 13, line 2 is somewhat confusing, and "lip" could be replaced with —one of said lips—to clarify the claim in this regard as best understood.

Re claim 14, while the claim is withdrawn from consideration and a complete action on the merits is not included herein, in an effort to expedite prosecution it is noted that line 3 is somewhat confusing, and "lip" could be replaced with —one of said lips—to clarify the claim in this regard as best understood. Additionally, line 4 is somewhat confusing, and "a corresponding" could be replaced with —the corresponding—to clarify the claim in this regard as best understood.

Re claim 15, line 3 is somewhat confusing, and "threaded hole" could be replaced with —one of said threaded holes—to clarify the claim in this regard as best understood.

Re claim 16, line 6 is somewhat awkward and confusing, and "in" of the line could be replaced with —and into—to correct the claim in this regard as best understood.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-3, 5, 10, and 12-13, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Wood et al '918.

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Wood et al teaches a bed liner with a side walls (61+) integrally formed with a first/floor wall, reinforcing members 15+ deemed attached to a distal edge as broadly claimed, and threaded holes (in nuts 13) therein as broadly claimed.

Re claim 3, the members define rails as broadly claimed and as best understood.

Re claims 5 and 12, the holes are spaced as broadly claimed and as best understood.

Re claim 10, the truck bed defines a lip as broadly claimed.

Re claim 13, in as much as the truck per se is not a positively recited element of the instant combination, and the liner is capable of use as defined, the functional/positional language relating to the truck bed features is given little patentable weight.

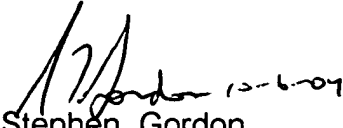
7. Claims 8-9 and 15-16 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Note at least Anderson teaches an array of tie-down holes for a truck bed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Gordon whose telephone number is (703) 308-2556. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Stephen Gordon
Primary Examiner
Art Unit 3612

stg